

REMARKS

By the present amendment, claims 1-3 and 5-6 have been amended to obviate the examiner's objections thereto and/or to further clarify the concepts of the present invention. Among other things, independent claim 1 has been amended to incorporate the subject matter of dependent claim 4 therein. Accordingly, dependent claim 4 has been canceled. Entry of these amendments is respectfully requested.

In the Office Action, claims 1-6 were provisionally rejected over claims 4-5 and 7-9 of co-pending application Ser. No. 10/808,446, based on the judicially created doctrine of obviousness type double patenting. In making this rejection, it was asserted that, although the claims of this application and the co-pending application were not identical, they are obvious over the other and thus are not patentably distinct. Reconsideration of this rejection in view of the above claim amendments and the following comments is respectfully requested.

Before discussing the rejection in detail, a brief review of the presently claimed invention may be quite instructive. The subject invention relates to a material for a filter comprising an asymmetric porous PTFE membrane and a reinforcing material. An important feature of such a material for a filter is that significantly improved collection efficiency of fine particles in air without pressure loss can be obtained.

In distinct contrast, the asymmetric porous PTFE membrane disclosed in application Ser. No. 10/808,446 is not used in the filter since this application relates to clothing material. Consequently, the presently claimed invention differs from that of application Ser. No. 10/808,446 since the asymmetric porous PTFE membrane in the application is only used in a clothing material. Thus, it is submitted that the subject obviousness type double patenting rejection has been overcome by amending the claims of this application such that they are patentably distinct from the claims of the copending application. Accordingly, withdrawal of the provisional rejection over claims 4-5 and 7-9 of co-pending application Ser. No. 10/808,446, based on the judicially created doctrine of obviousness type double patenting is respectfully requested.

Claim 1 was rejected over U.S. Patent No. 6,852,223 in view of the patent to Minor et al under the judicially created doctrine of obviousness type double patenting. In making this rejection, it was asserted that, although the claims of the application and the patent were not identical, they are obvious over the other and thus are not patentably distinct. Reconsideration of this rejection in view of the above claim amendments and the following comments is respectfully requested.

As mentioned previously, independent claim 1 has been amended to incorporate the subject matter of dependent claim 4 therein. Thus, it is submitted that the subject rejection is now moot. Accordingly, withdrawal of the rejection under the judicially created doctrine of obviousness type double patenting and allowance of claim 1 are respectfully requested.

Claims 1-3 and 6 were rejected and under 35 USC § 102(e) as anticipated by the patent to Huang et al. In making this rejection, it was asserted that the cited patent teach the entire membrane as set forth in the noted claims. Reconsideration of this rejection in view of the above claim amendments and the following comments is respectfully requested.

With regard to this rejection, it again is to be noted that independent claim 1 has been amended to incorporate the subject matter of dependent claim 4 therein. Thus, it is submitted that the subject rejection is now moot. Accordingly, withdrawal of the rejection under 35 USC § 102(e) over the cited patent and allowance of claim 1 are respectfully requested.

In addition, claims 4 and 5 were rejected under 35 USC § 103(a) as being unpatentable over the same patent to Huang et al as cited above further in view of the patent to Minor et al. Reconsideration of this rejection in view of the above claim amendments and the following comments is respectfully requested.

With regard to this rejection, it is to be noted that the inventors of the subject application are the same as those listed in the cited patent to Huang et al, a fact apparently acknowledged by the examiner. The Section 102(e) of the cited statute requires that a published application or patent to be an effective reference must be "by another." Since the inventive entities are the same, the rejection under Section 102(e) based on this patent is improper since the former patent is not an effective reference against the subject application.

Serial Number: 10/807,160
OA dated 2/21/07
Amdt. dated 5/21/07

For the reasons stated above, withdrawal of the rejection under 35 U.S.C. § 103(a) and allowance of claim 1 and the claims dependent thereon over the cited patents are respectfully requested.

In view of the foregoing, it is submitted that the subject application is now in condition for allowance and early notice to that effect is earnestly solicited.

In the event this paper is not timely filed, the undersigned hereby petitions for an appropriate extension of time. The fee for this extension may be charged to Deposit Account No. 01-2340, along with any other additional fees which may be required with respect to this paper.

Respectfully submitted,

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